

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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KIMBERLY FLANIGAN,

Plaintiff,

v.

WESTROCK SERVICES, LLC,

Defendant.

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CASE NO. 5:23-cv-00296

ORDER

[Resolving Docs. 4, 13]

JAMES S. GWIN, UNITED STATES DISTRICT COURT JUDGE:

On June 23, 2023, the Court granted Plaintiff Kimberly Flanigan's unopposed motion to file an amended complaint removing certain claims while leaving the remaining claims unchanged.<sup>1</sup> At that time, the parties had fully briefed a motion to dismiss Flanigan's original complaint, but the Court had not yet ruled on that motion.<sup>2</sup>

On September 8, 2023, Defendant WestRock Services, LLC filed a motion for leave to re-file its motion to dismiss.<sup>3</sup> Defendant indicated that its motion to dismiss the original complaint was likely moot due to the filing of an amended complaint and sought to file a motion to dismiss the amended complaint.<sup>4</sup> Defendant also attached its proposed motion to dismiss and supporting exhibits to its motion for leave to re-file.<sup>5</sup> Plaintiff did not oppose leave to file a new motion.<sup>6</sup>

Because Plaintiff does not oppose, the Court **GRANTS** leave to file a motion to dismiss the amended complaint. Defendant shall file its new motion and supporting attachments as

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<sup>1</sup> Doc. 12.<sup>2</sup> Docs. 4, 8, 11.<sup>3</sup> Doc. 13.<sup>4</sup> *Id.*<sup>5</sup> Docs. 13-1 to -5.<sup>6</sup> Doc. 15.

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a separate docket entry, with links to both Plaintiff's opposition<sup>7</sup> and Defendant's reply in support of the motion to dismiss the original complaint.<sup>8</sup> As the remaining claims in the amended complaint are unchanged, Defendant shall not file a new reply without leave of Court.

The motion to dismiss the original complaint is **DENIED AS MOOT**.<sup>9</sup>

IT IS SO ORDERED.

Dated: September 14, 2023

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>7</sup> Doc. 16.

<sup>8</sup> Doc. 11.

<sup>9</sup> *Divito v. City of Bedford Heights*, No. 1:23-CV-00525, 2023 WL 4904001, at \*1 (N.D. Ohio Aug. 1, 2023) ("An amended complaint supersedes all previous complaints, making pending motions related to the complaint moot.") (cleaned up) (citations omitted).